BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	Louis & Sylvia Baioni)
	Ward 80, Block 23, Parcel L29	2
	Residential Property) Shelby County
	Tax year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject

property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$280,700	\$780,900	\$1,061,600	\$265,400

On January 11, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on April 4, 2006 in Memphis. In attendance at the hearing were the appellant Louis Baioni and Shelby County Property Assessor's representative Chris Kirby.

Findings of Fact and Conclusions of Law

The property in question is a 5,731-square-foot house located at 5868 Garden Oak Cove in Memphis. Built in 1986, this brick veneer home contains five bedrooms, five full baths, and an attached three-car garage. Mr. Baioni purchased the property in 1997 for \$679,000.

At the hearing, much of the discussion centered on two other homes on the same street. As shown in Mr. Kirby's comparative sales analysis, 5851 Garden Oak Cove sold for \$1,100,000 (or \$198.23 per square foot) in February, 2002. However, a subsequent estate sale of that property on August 14, 2003 brought only \$830,000. The slightly smaller 5878 Garden Oak Cove, which was custom built in 1998, sold for \$1,200,000 (\$215.91 per square foot) in July, 2004. But according to Mr. Baioni's information, the estimated total cost of that home's superior features (e.g., flooring; roof; countertops) was nearly \$300,000. In his view, reduction of the actual sale price by that amount yielded a more reliable indication of the subject property's market value.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The record does seem to bear out Mr. Baioni's claim that 5851 Garden Oak Cove is the best available comparable. Further, the fact that the \$1,100,000 sale of that property happened almost three years prior to the January 1, 2005 reappraisal does diminish its evidentiary weight in the Assessor's favor. Yet, on the other hand, the proof does not satisfactorily establish that the more recent estate sale of 5851 Garden Oak Cove for a much lower price was an arm's-length transaction.

As for 5878 Garden Oak Cove, some downward adjustment of the 2004 sale price for that newer and more elaborate home must obviously be made. But it is axiomatic among appraisal practitioners that *cost* does not necessarily equal *value*. Even assuming the accuracy of the appellants' cost estimates, the administrative judge cannot legitimately infer from the evidence of record that the expenditures on the various embellishments built into that home increased its worth to an equivalent degree. Stated differently, the proof does not justify the conclusion that the subject house has been overvalued at about \$30.00 less per square foot than the sale price for #5878.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$280,700	\$780,900	\$1,061,600	\$265,400

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

- 1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
- A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of April, 2006.

Pete Lorect

ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Louis & Sylvia Baioni

Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

Rita Clark, Assessor of Property

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